

Government Debt Act

(Issued by the 39th National Assembly on 17 September 2002; Promulgated, State Gazette No. 93/1.10.2002, amended SG No. 34/19.04.2005, effective 1.06.2005, amended and supplemented, SG No. 52/29.06.2007, effective 1.11.2007)

Chapter One

GENERAL PROVISIONS

Article 1. This Act shall regulate the procedure of undertaking government debt and for issuing government guarantees, the types of debt, and the government debt agency functions.

Chapter Two

GOVERNMENT DEBT

Article 2. All financial obligations, undertaken on behalf and for the account of the government in compliance with the Constitution, shall constitute government debt, and shall represent a liability of the government.

Article 3. Where the government debt is revalued in Bulgarian leva, obligations denominated in foreign currency shall be translated at the exchange rate of the Bulgarian National Bank as of the date of revaluation.

Article 4. The government debt shall be undertaken through:

1. issues of government securities;
2. government loan agreements.

Article 5. (1) Government debt may be undertaken in the following cases:

1. to finance the budget deficit;
2. to finance investment projects and specific programmes, where approved by the National Assembly;
3. to refinance the government debt outstanding on or before the maturity date;
4. to meet payments under government guarantees that have become due;
5. to support the balance of payments of Bulgaria.

(2) Refinancing may also be used for the following purposes:

1. to reduce the present value of government debt servicing expenditures;
2. to extend the average weighted maturity (modified duration) of government debt;
3. to balance distribution of government debt payments.

(3) The conditions that investment projects referred to in Item 2 of Paragraph (1) should fulfil, and the procedure for consideration of any such projects shall be established by the Council of Ministers.

Article 6. The government debt may be agreed upon, issued and paid in leva or in foreign currency.

Article 7. The amounts due in interest payments and principal repayments on the government debt shall be a priority payment of the executive budget.

Chapter Three

DEBT LIMIT

Article 8. The state budget act for the relevant year shall determine:

1. the maximum amount of new government debt and government guarantees that may be undertaken during the year;

2. the maximum amount of government debt as at the end of the budget year.

Article 9. (1) For the purposes of monitoring compliance with the limits referred to in Article 8 herein, the amount of government debt and government guarantees which are not denominated in leva, shall be recalculated at the exchange rate of the Bulgarian National Bank as of the date of occurrence of the liability.

(2) Where government securities are issued with a discount or a margin, the limit shall be calculated on the basis of the face value of the government securities.

Article 10. (1) The outstanding portion of the consolidated government debt at the end of each year as a ratio of the projected gross domestic product, may not exceed the previous year ratio until this ratio is more than 60 per cent.

(2) The amount of the gross domestic product at current prices, taken from the three-year budget projection as approved by the Council of Ministers, and the amount of the consolidated government debt in leva translated at exchange rates set in the three-year budget projection as approved by the Council of Ministers, shall be used for the purpose of calculating the ratio referred to in Paragraph (1).

Article 11. In the event of risk of non-compliance with the requirement under Article 10 herein, the Council of Ministers may propose some restrictions on the issuance of municipal debt and social security funds debt in the state budget act for the respective year.

Chapter Four

POWERS IN RELATION TO THE GOVERNMENT DEBT

Article 12. (1) The Minister of Finance shall sign on behalf of the government the government loan agreements on the basis of a Council of Ministers decision according to the procedure established by the International Treaties Act.

(2) Government securities shall be issued by the Minister of Finance.

(3) The Council of Ministers may also assign to other government authorities to participate together with the Minister of Finance in the negotiations of government loans.

Article 13. The Minister of Justice shall prepare a legal opinion on the fact of ratification,

which shall serve as a notification to the creditors in the cases where government debt agreements or guarantee agreements are ratified by the National Assembly.

Article 14. (1) The Minister of Finance may extend the proceeds of the loan to state bodies, financial institutions and/or other legal persons according to the conditions of the agreement, where a government loan agreement provides for target financing.

(2) State bodies and financial institutions referred to in Paragraph (1) may provide resources for financing investment projects or other activities of third parties that meet creditor's requirements and, to this end, an agreement shall be concluded with the Minister of Finance. To obtain such resources, the third parties shall furnish a security in an amount covering the principal and interest due therefrom.

Article 15. (1) The Minister of Finance shall prepare an annual report on the state of the government debt.

(2) The annual report referred to in Paragraph (1) shall be considered by the Council of Ministers and shall be laid before the National Assembly as an integral part of the report on the implementation of the state budget for the relevant year.

Article 16. (1) The Minister of Finance shall develop a three year government debt management strategy, which shall be approved by the Council of Ministers.

(2) The strategy referred to in Paragraph (1) shall be updated annually and shall be submitted together with the three-year budget projection for approval by the Council of Ministers.

Article 17. The Minister of Finance may effect financial transactions for the purpose of reducing the risk related to the government debt structure.

Chapter Five

GOVERNMENT-GUARANTEED DEBT

Article 18. All financial obligations, for which the Council of Ministers has issued guarantees on behalf and for the account of the government in compliance with the requirements of the Constitution, shall be government-guaranteed debt.

Article 19. (1) The Minister of Finance shall participate in the negotiations on the extension of a government-guaranteed loan, and shall sign, on behalf of the government, agreements on the issuance of a government guarantee or guarantee letters pursuant to a Council of Ministers decision.

(2) The Council of Ministers may assign to other government authorities to participate in the negotiations of government guaranteed loans together with the Minister of Finance.

Article 20. Any proposals for revisions of the loan or guarantee agreement, in the cases of government guarantees already issued, shall be made after the advance approval of the Minister of Finance.

Article 21. (1) Borrowers under government-guaranteed loans shall provide the Minister of Finance, on or before the 15th day of each month, information on the state and movement of funds under the loan.

(2) Where necessary, the Minister of Finance may request additional information on the government-guaranteed loans from the state bodies that have proposed the issuance of the

guarantee, and they shall provide it within fifteen days after receipt of the request.

Article 22. The conditions that projects applying for government- guaranteed financing should meet and the government guarantee issuance procedures shall be determined by the Council of Ministers.

Article 23. (1) Interest and principal on government-guaranteed debt shall be paid by the borrowers.

(2) Payment under a government guarantee shall be due only in the event:

1. a borrower has not effected a full or partial payment on a loan in accordance with the terms and conditions of the loan agreement;

2. a creditor has taken the steps and actions provided for in the respective loan agreement for collection of the amounts due from the borrower.

Article 24. In the cases referred to in Item 1 of Article 23 (2) herein, the borrower and the creditor shall notify the Minister of Finance within three days.

Article 25. Where the requirements referred to in Item 2 of Article 23 (2) herein have not been provided for in the government guarantee issuance agreement, the Minister of Finance shall specify together with the creditor the actions to be taken where a payment on a government guarantee is due, as well as the time limits within which the government should pay the overdue amount.

Article 26. As from the date of the payment under a government guarantee, the government shall accede to the creditor's rights under the loan agreement up to the amount of the payment made.

Article 27. (1) The borrower shall be obligated to reimburse in full the amounts paid to the creditor under a government guarantee, and the expenses incurred in relation to the payment.

(2) The Minister of Finance shall take any actions according to the effective legislation to recover the amounts paid under the government guarantee.

Chapter Six

DEBT OF THE BULGARIAN NATIONAL BANK, DEBT OF MUNICIPALITIES AND OF

SOCIAL INSURANCE FUNDS

Article 28. The debt of the Bulgarian National Bank shall not be guaranteed by the government and shall not constitute a liability of the Council of Ministers, save in the cases where a government guarantee has been issued according to the appropriate procedure.

Article 29. The Bulgarian National Bank may undertake debt pursuant to the provisions of the Bulgarian National Bank Act.

Article 30. The debt of municipalities and of the social insurance funds shall not be guaranteed by the government, and shall not constitute a liability of the government, save in the cases where a government guarantee has been issued according to the appropriate procedure.

Chapter Seven

PRIVATE DEBT

Article 31. All financial obligations undertaken by resident persons who or which do not act

on behalf of the government, municipalities, social insurance funds, or the Bulgarian National Bank, shall constitute private debt.

Article 32. Private debt shall not be guaranteed by the government and shall not be a liability of the Council of Ministers, the municipalities, social insurance funds, or the Bulgarian National Bank, save in the cases where a government guarantee has been issued according to the appropriate procedure.

Article 33. The Bulgarian National Bank shall register and monitor the financial liabilities of residents to non-residents according to the effective legislation.

Chapter Eight

GOVERNMENT DEBT AGENT

Article 34. (1) The Bulgarian National Bank shall act, under terms and conditions agreed with the Minister of Finance, as an agent for the government and government-guaranteed debt.

(2) To perform its functions referred to in Paragraph (1), the Bulgarian National Bank shall establish and maintain government and government-guaranteed debt registration and servicing systems.

(3) The relationships referred to in Paragraph (1) shall be regulated by an agency agreement, and the Ministry of Finance shall pay a commission for the agency services rendered by the Bank.

Article 35. (1) (Previous text of Article 35 - SG No. 52/2007) For the purpose of performing its agency functions, the Bulgarian National Bank shall:

1. (amended, SG No. 52/2007) establish and organize a system for conduct of auctions and subscriptions for sale of government securities the participants wherein shall be specified by the ordinance under Article 36 Paragraph (1).

2. register government securities issues, secondary-market transactions in government securities, and shall create conditions for the development of the secondary market;

3. (new, SG No. 52/2007) establish and organize a system for settlement of government securities in which three or more members shall participate, who may be primary dealers, sub-depositories of government securities and other persons determined by the minister of finance and the governor of the Bulgarian National Bank under the terms of the ordinance under Article 36 Paragraph (1), with common rules providing for the discharge of obligations related to participation in the system on the basis of agreement, such as:

a) order for registration of transfer sent to the system in accordance with its rules may not be cancelled after the time specified in the settlement system; actions performed by a participant in the system or a third party after that time, aimed to withdraw or cancel said order for transfer shall be invalid;

b) withdrawal of the license of a bank or a branch of a foreign bank in the country, as well as initiation of bankruptcy proceedings against another participant in the settlement system shall not affect the obligation of the system to process and execute settlement of the orders for registration of transfer, as well as the validity and enforceability against third parties of such orders, if they

were accepted by the system in accordance with its rules.

4. (previous item 3, amended, SG No. 52/2007) select, jointly with the Ministry of Finance, government securities primary dealers and other participants in the government securities market, as well as take enforcement measures against them in case of violations - in accordance with criteria and rules approved by the Minister of Finance and the Governor of the Bulgarian National Bank;

5. (previous item 4 - SG No. 52/2007) provide information on the financial position of government securities primary dealers;

6. (previous item 5 - SG No. 52/2007)perform other mutually agreed activities.

(2) (New, SG No. 52/2007) Sub-depositories of government securities issued on the domestic market may be only credit institutions under Article 2, Paragraph 5 of the Credit Institutions Act, whose license covers the activities under Article 2, Paragraph 2, item 4 of the Credit Institutions Act.

Article 36. (1) (Supplemented, SG No. 52/2007) The Minister of Finance and the Bulgarian National Bank shall issue an ordinance establishing a procedure and terms for acquisition, registration, redemption, and trade in government securities, except for trade on regulated markets in financial instruments and multilateral trading facilities.

(2) (Supplemented, SG No. 52/2007) The Minister of Finance, jointly with the Bulgarian National Bank, shall regulate the government securities market, and shall issue an ordinance on the control of transactions in government securities, except for trade on regulated markets in financial instruments and multilateral trading facilities.

(3) (New, SG No. 52/2007) The Bulgarian National Bank shall issue an ordinance on the settlement of government securities governing the keeping of accounts for government securities with the Bulgarian National Bank and with the persons under Article 35, Paragraph (2).

(4) (Renumbered from Paragraph 3, amended, SG No. 52/2007) The ordinances referred to in Paragraphs (1), (2) and (3) shall be promulgated in the State Gazette.

Article 37. The Minister of Finance may conclude agency agreements with other residents and non-residents as well.

Chapter Nine

INFORMATION ON THE DEBT

Article 38. (1) The Ministry of Finance shall maintain an official register of the government and government-guaranteed debt.

(2) (Effective 2.04.2003) The official information on the consolidated government and government-guaranteed debt shall be published on a monthly basis by the Ministry of Finance in an official bulletin and shall be posted in the Internet.

Article 39. (Amended, SG No. 34/2005) Within 30 days before undertaking of debt or issuing a guarantee, the social insurance funds shall be obligated to inform the Ministry of Finance of the intentions thereof to undertake debt or to issue a guarantee.

Article 40. The Minister of Finance shall determine the procedure, manner and time limits for provision of information on the state and funds movement of the debt of the municipalities and social insurance funds.

Chapter Ten

ADMINISTRATIVE PENALTY PROVISIONS

Article 41. (1) A pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000 shall be imposed in case of failure of legal persons to perform their obligations under Article 21 (1) herein, and any official responsible for the provision of information shall be punishable by a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,000.

(2) In case of a repeated violation under Paragraph (1), legal persons shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 15,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

Article 42. (1) In case of failure to perform the obligations thereof under Article 21 (2) herein, legal persons shall be liable to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,000.

(2) In case of a repeated violation under Paragraph (1), legal persons shall be liable to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 10,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 2,000.

Article 43. (1) In case of failure to perform the obligations thereof under Article 24 herein, the borrower shall be liable to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,000.

(2) In case of a repeated violation under Paragraph (1), legal persons shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 15,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

Article 44. (1) In case of failure to perform the obligations thereof under Article 39 herein, legal persons shall be liable to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,000.

(2) In case of a repeated violation under Paragraph (1), legal persons shall be subject to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 15,000, and any official responsible for the provision of information shall be punishable by a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

Article 45. (1) The written statements ascertaining violations shall be drawn up by officials designated by the Minister of Finance, and the penalty decrees shall be issued by the Minister of Finance.

(2) The drawing up of written statements, the issuing, appeal against and execution of penalty decrees shall be follow the procedure established by the Administrative Violations and Sanctions Act.

Th) order for registration of transfer sent to the system in accordance with its rules may not be cancelled after the time specified in the settlement system; actions performed by a participant in the system or a third party after that time, aimed to withdraw or cancel said order for transfer shall be invalid;

b) withdrawal of the license of a bank or a branch of a foreign bank in the country, as well as initiation of bankruptcy proceedings against another participant in the settlement system shall not affect the obligation of the system to process and execute settlement of the orders for registration of transfer, as well as the validity and enforceability against third parties of such orders, if they were accepted by the system in accordance with its rules.

SUPPLEMENTARY PROVISION

§ 1. Within the meaning given by this Act:

1. "Refinancing" shall be the issuance of government debt, the funds of which shall be used for partial or full payment of another government debt.

2. "Issuance of debt" shall be the undertaking of financial liabilities by entities determined by the law.

3. "Issuance of a government guarantee" shall be the conclusion of guarantee agreement, undertaking of guarantee obligations under loan agreements or in case of issuance of securities, or Letters of Guarantee on behalf of the government.

4. "Social insurance funds" shall be the public social insurance funds, the Teachers' Pension Fund, and the National Health Insurance Fund.

5. "Consolidated government debt" shall be the face value of the government debt, the debt of the municipalities and the debts of the social insurance funds.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Paragraph (3) of § 16 of the Transitional and Final Provisions of the Public Offering of Securities Act (promulgated in the State Gazette No. 114 of 1999; amended in Nos. 63 and 92 of 2000, Nos. 28 and 61 of 2002) is hereby repealed.

§ 3. Within one month after the entry of this Act into force, the Minister of Finance and the Bulgarian National Bank shall issue the ordinances referred to in Article 36 herein.

§ 4. Within two months after the entry of this Act into force, the municipalities and the social insurance funds shall inform the Ministry of Finance of the outstanding debt or the guarantees already issued.

§ 5. Within three months after the entry of this Act into force, the Council of Ministers shall adopt the acts referred to in Article 5 (3) and Article 22 herein.

§ 6. The provision of Article 38 (2) herein shall enter into force six months after the promulgation of this Act in the State Gazette.

§ 7. Article 11 of the Municipal Budgets Act (promulgated in the State Gazette No. 33 of 1998; amended in No. 69 of 1999; modified by Constitutional Court Judgment No. 2 of 2001,

promulgated in No. 9 of 2001; amended in No. 56 of 2002) shall be amended and supplemented as follows:

1. There shall be inserted the following new paragraph:

"(4) Together with the proposal referred to in Paragraph (3), the municipality mayor shall also submit to the Ministry of Finance a proposal on the municipality's intentions to undertake municipal debt for budget deficit financing according to the procedure established by Article 10 herein. "

2. The existing Paragraphs (4), (5), (6) and (7) shall be renumbered to become Paragraphs (5), (6), (7) and (8), respectively.

§ 8. The Council of Ministers shall be entrusted with the implementation of this Act.